

**For the Petition of James Salvatore for Review of Denial of Petroleum Underground Storage Tank Case Closure at 10439 Prospect Avenue, Santee, California, change the following:**

**Change Section VI. FINDINGS as follows:**

1. Pursuant to the test established by this Order, a party may be removed as a responsible party for a UST cleanup site if that party demonstrates that the release, when considered separately from other releases that have commingled with the responsible party's release, meets State Water Board closure policies. The application of the above-described responsible party removal test does not apply where multiple minor releases, which could be closed if considered separately, combine to make corrective action necessary. Petitioner has demonstrated that the separate release for which Petitioner is responsible has been adequately investigated and characterized, and that there are sufficient data for the State Water Board to determine that Petitioner's case should be closed.<sup>8</sup>
2. The State Water Board has a long-standing policy of assessing joint and several liability against all responsible parties in cleanup cases. This Order does not alter that policy, and it remains the Board's intent to name all responsible parties jointly and severally liable in cleanup actions. The test developed in this case applies to the removal of a responsible party for a UST cleanup site in limited circumstances. Based on the State Water Board's review, closure of Petitioner's case will not create an orphan site, as a financially responsible party is currently undertaking cleanup activities related to the unauthorized release and commingled plume that has impacted Petitioner's Site. In circumstances where a financially responsible party has not been identified, and removal of a party may result in the creation of an orphan site, the State Water Board does not intend to apply the test developed in this Order.
3. The United States Department of Homeland Security (Department) has been identified as the responsible party at the Border Patrol site, and corrective action commenced at the site in 1997 when the release at the Border Patrol site was first discovered.

---

<sup>8</sup> ~~This Order does not decide whether application of this test is appropriate in circumstances where removal of a responsible party would result in the creation of an orphan site.~~

The Department remains in compliance with corrective action orders issued by the County of San Diego, and has the financial ability to complete corrective action related to the commingled releases.

4. The State Water Board provided a 60 day comment period in accordance with the Low-Threat Policy.
5. Pursuant to section 21080.5 of the Public Resources Code, environmental impacts associated with the adoption of this Order were analyzed in the substitute environmental document (SED) the State Water Board approved on May 1, 2012. The SED concludes that all environmental effects of adopting and implementing the Low Threat Closure Policy are less than significant, and environmental impacts as a result of adopting this Order in compliance with the Policy are no different from the impacts that are reasonably foreseen as a result of the Policy itself. A Notice of Decision was filed August 17, 2012. No new environmental impacts or any additional reasonably foreseeable impacts beyond those that were addressed in the SED will result from adopting this Order.
6. Based upon the case data, the State Water Board finds that corrective action performed at the UST release Site located at 10439 Prospect Avenue, Santee, California ensures protection of human health, safety and the environment and is consistent with Chapter 6.7 of Division 20 of the Health and Safety Code and implementing regulations, the Low-Threat Policy, and applicable water quality control plans. Additional corrective action at the Site is limited to proper destruction of monitoring wells and removal of waste and debris, as described in the Low-Threat Policy and as ordered below.

**Change Section VII. ORDER as follows:**

**IT IS THEREFORE ORDERED** that:

- A. The UST case located at 10439 Prospect Avenue, Santee, meeting the general and media-specific criteria established in the Low-Threat Closure Policy, be closed in accordance with the following conditions and after the following actions are complete. Prior to the issuance of a closure letter, the Petitioner is ordered to:

1. Properly destroy monitoring wells and borings unless the owner of real property on which the well or boring is located certifies that the wells or borings will be maintained in accordance with local or state requirements;
2. Properly remove from the Site and manage all waste piles, drums, debris, and other investigation and remediation derived materials in accordance with local or state requirements; and
3. Within six months of the date of this Order, submit documentation to the regulatory agency overseeing the UST case identified in Section III of this Order that the tasks in subparagraphs (1) and (2) have been completed.